



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/260,468    03/02/99    ROBL    J    000270-057

021839    HM22/0620  
BURNS DOANE SWECKER & MATHIS  
P O BOX 1404  
ALEXANDRIA VA 22313-1404

EXAMINER

MARTIN, J

ART UNIT

PAPER NUMBER

1632

DATE MAILED:

06/20/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

FILE

# Office Action Summary

Application No.  
09/260,468

Applicant(s)  
Robl et al.

Examiner  
Jill D. Martin

Group Art Unit  
1632



- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

- ☒ Claim(s) 1-50 is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claims 1-50 are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- ☐ Notice of References Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1632

***Election/Restriction***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-25 and 31-50, drawn to cross-species nuclear transfer method for producing embryonic or stem-like cells, the embryonic or stem-like cells produced from the method, differentiated cells produced from inducing differentiation of the embryonic or stem-like cells, and the gene-modified methods and cells, classified in class 800, subclass 24; and class 435, subclasses 325, 455, 463, 320.1, 69.1, for example.
- II. Claims 26-30, drawn to a method of cell transplantation therapy, classified in class 424, subclass 93.21, for example.

The inventions are distinct, each from the other because of the following reasons:

The methods of Inventions I and II are materially different and plurally independent from each other because each are practiced with materially different process steps, technical considerations, and reagents, in particular therapeutic considerations. In addition, the embryonic or stem-like cells or differentiated cell produced therefrom are not limited in use to the methods of cellular transplantation and can be useful in cell culture methods, for example. Thus, the differences of Inventions I and II are further underscored by their divergent classification and independent search status.

Art Unit: 1632

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

Art Unit: 1632

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill Martin whose telephone number is (703)305-2147.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jasemine C. Chambers, can be reached at (703)308-2035.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-0196.

Papers related to this application may be submitted by facsimile transmission. Papers should be faxed via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center numbers are (703)308-4242 and (703)305-3014.

A handwritten signature in black ink, appearing to read "Jill D. Martin", is positioned above the printed name.

Jill D. Martin

Patent Examiner